

Enrolment No./Seat No_____

GUJARAT TECHNOLOGICAL UNIVERSITY

BE - SEMESTER-III (NEW) EXAMINATION – SUMMER 2024

Subject Code:3130007

Date:02-07-2024

Subject Name: Indian Constitution

Time:10:30 AM TO 12:30 PM

Total Marks:50

Instructions:

1. Attempt all questions.
2. Make suitable assumptions wherever necessary.
3. Figures to the right indicate full marks.
4. Simple and non-programmable scientific calculators are allowed.

Marks

Q.1 (a) Differentiate between constitution law and constitutionalism. **05**
(b) How many Fundamental duties are incorporated in Indian constitution? Enlist them. **05**

Q.2 (a) Identify and outline the primary attributes of the Indian Constitution. **05**
(b) Explain the federal structure of the Indian Constitution, delineating the distribution of legislative and financial powers between the Union and the States. **05**

OR

(b) Identify the difference between Lok Sabha and Rajya Sabha. **05**

Q.3 (a) Discuss
1) The Government of India Act, 1919.
2) The Government of India Act, 1935.
(b) What do you mean by directive principles of state policy? What is their importance? **05**

OR

Q.3 (a) Explain the Gandhian Principles among the Directive Principles of State Policy. **05**
(b) State the comparison and difference between Fundamental Rights and Directive Principles **05**

Q.4 (a) What are your observations on cultural and educational rights given to Indian citizen in the Constitution?
(b) Explain any five important amendments of the Indian Constitution. **05**

OR

Q.4 (a) Explain the status of President of India. **05**
(b) Write a note on right against Exploitation. **05**

Q.5 (a) Explain the Effects of the finance emergency if Proclaimed by the President. **05**
(b) Explain the significance of the right to life as outlined in Article 21 of the Constitution. **05**

OR

Q.5 (a) In accordance with the 73rd Amendment of 1992, which segment has been newly incorporated into the Indian Constitution? Provide a detailed explanation. **05**
(b) Explain
1) Constitutional Amendment
2) Powers of Constitutional Amendment
3) Procedure for Constitutional Amendment. **05**

Q.1 (a) Give a definition of constitutional law and discuss its importance.

Definition of Constitutional Law

Constitutional law refers to the **body of rules, principles, and practices** that define the structure of the government, the distribution of powers among different organs, and the rights and duties of citizens. It forms the **foundation of a nation's legal and political system**. Constitutional law ensures that the government functions **within the limits prescribed by the Constitution** and protects the fundamental rights of individuals.

Explanation

- Constitutional law is derived from the **written Constitution**, judicial interpretations, conventions, and related laws.
 - It establishes the **framework of governance**, such as the role of the Legislature, Executive, and Judiciary.
 - It ensures **checks and balances**, so that no organ of the government misuses its powers.
 - It outlines how the government should work and how citizens are to be protected under the law.
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Importance of Constitutional Law

1. Maintains Rule of Law

- It ensures that **all authorities—government officials and citizens—are governed by law** and no one is above it.

2. Defines Government Structure

- It creates the basic structure of government such as **Parliament, President, PM, Governor, Courts**, etc., and defines their powers and limitations.

3. Protects Fundamental Rights

- It guarantees **freedoms and rights** such as equality, speech, liberty, and protection against discrimination.

4. Prevents Misuse of Power

- By limiting governmental powers, it ensures that the government **cannot act arbitrarily or unfairly**.

5. Ensures Stability and Order

- It provides a **stable legal framework** so that governance continues smoothly even during political change.

6. Guides Policy and Law Making

- Every law passed by the government must comply with constitutional principles, ensuring **fairness and justice**.

7. Strengthens Democracy

- Constitutional law establishes values like **justice, liberty, equality, and fraternity**, which help maintain a **democratic society**.

(b) What were the main factors that influenced the development of the Indian Constitution?

Introduction

The Constitution of India is one of the **longest and most detailed constitutions in the world**. Its framing was influenced by several historical, political, social, and legal factors. The Constituent Assembly studied various global constitutions and also considered India's unique conditions while drafting it. These influences helped in creating a **balanced, modern, and democratic Constitution**.

Main Factors Influencing the Development of the Indian Constitution

1. Government of India Acts (Especially 1919 and 1935)

- These Acts introduced administrative structures during British rule.
- Many provisions like the **federal system, public service commissions, governor's office, and emergency powers** were adopted from the **Government of India Act, 1935**.
- The Act served as the **foundation** for the Indian Constitution.

2. British Parliamentary System

- India adopted the **Parliamentary form of government**, similar to the UK.
- Features like **responsible government, rule of law, cabinet system**, and relationship between executive and legislature were inspired by the British model.

3. U.S. Constitution

- India borrowed several important features from the U.S. Constitution, such as:
 - **Fundamental Rights,**
 - **Judicial Review,**
 - **Independent Judiciary,**
 - **Written Constitution, and**
 - **Impeachment of President.**
- These principles strengthened India's commitment to **democracy and individual rights**.

4. Irish Constitution

- India adopted the idea of **Directive Principles of State Policy (DPSP)** from Ireland.
- These principles guide the government to establish **social and economic justice**, welfare policies, and development programmes.

5. Canadian Constitution

- The distribution of powers between **Union and States** and the **residuary powers to the Centre** were inspired by Canada.
- This helped India build a **strong Centre with a federal structure**.

6. French Constitution

- The ideals of **Liberty, Equality, and Fraternity** in the Preamble were inspired by the **French Revolution**.
- These ideals reflect India's commitment to a **democratic and just society**.

7. Social and Cultural Diversity of India

- India is a country with diverse **languages, religions, castes, and traditions**.
- To respect and protect this diversity, the Constitution included provisions for:
 - **Fundamental Rights,**
 - **Cultural and Educational Rights,**
 - **Minority protection,**
 - **Secularism.**

8. Historical Experiences

- The national movement, especially under **Gandhi, Nehru, Ambedkar**, taught important lessons about **freedom, equality, and justice**.
- Incidents of social discrimination, colonial rule, and demands for self-governance shaped many provisions.

9. Need for a Strong and Stable Government

- After Independence, India needed political stability.
- This influenced adoption of features like:
 - **Strong central government,**
 - **Emergency provisions,**
 - **All-India services**, etc.

Q.2 (a) Discuss the distinctive characteristics of the Indian Constitution in relation to its flexibility and rigidity.

Introduction

The Indian Constitution is considered neither completely rigid nor completely flexible. It is often described as a “**flexible-rigid**” or “**semi-rigid**” Constitution because it contains features of both. The framers wanted a Constitution that could **adapt to changing needs** but also **maintain stability** and prevent misuse. Therefore, the amendment procedure under **Article 368** allows for both **simple changes** and **strict procedures** depending on the importance of the provision.

Characteristics Showing Flexibility

1. Simple Amendment Process for Many Provisions

- Several parts of the Constitution can be amended by a **simple majority in Parliament**, just like ordinary laws.
- Examples:

- Formation of new states
- Changes in citizenship
- Salaries of MPs and judges
- This makes the Constitution **easier to update.**

2. Adaptability With Social and Political Change

- The Constitution has been amended **100+ times**, proving it is **not too rigid**.
- It can adjust to new social, economic, and political needs without difficulty.

3. Scope for Judicial Interpretation

- Courts, especially the **Supreme Court**, interpret constitutional provisions in modern contexts.
 - Judicial interpretation adds **flexibility** by updating meaning without formal amendments.
-

Characteristics Showing Rigidity

1. Special Majority Requirements

- Important provisions can be amended **only by a special majority** (2/3rd of members present and voting + majority of total membership).
- This shows that important aspects **cannot be changed easily**.

2. Consent of States Required

- For federal matters, amendments require **ratification by at least half of the State Legislatures**.
- Example:
 - Distribution of powers

- Representation of states in Parliament
- Supreme Court and High Court structure
- This ensures **protection of federalism** and adds rigidity.

3. Basic Structure Doctrine

- The Supreme Court's judgment in the **Kesavananda Bharati case (1973)** introduced the **Basic Structure Doctrine**.
 - Parliament cannot amend the **basic structure** of the Constitution.
 - This adds strict rigidity to protect democracy.
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Why the Indian Constitution Is Considered Both Flexible and Rigid

- **Flexible** because many parts can be amended easily, judicial interpretation updates meaning, and the Constitution is practical and adjustable.
- **Rigid** because crucial elements require special majority, state approval, and cannot violate the basic structure.

Thus, it is a **balanced combination**, allowing changes without compromising stability.

(b) What are basic rights? Describe their importance in the Indian Constitution.

Introduction

Basic rights, also known as **Fundamental Rights**, are the essential rights guaranteed to all citizens to ensure their **freedom, dignity, and protection** within a democratic society. These rights are provided in **Part III of the Indian Constitution** and are considered the **cornerstone of Indian democracy**. They act as limitations on the

power of the government and safeguard individuals from misuse of authority.

What Are Basic Rights?

Basic rights are those **essential, inalienable rights** that every individual possesses by virtue of being a human. In the Indian Constitution, these are known as **Fundamental Rights**, and they include:

- Right to Equality
- Right to Freedom
- Right against Exploitation
- Right to Freedom of Religion
- Cultural and Educational Rights
- Right to Constitutional Remedies

These rights ensure that **citizens enjoy political, social, and personal freedoms** necessary for a democratic life.

Importance of Basic Rights in the Indian Constitution

1. Protection of Individual Liberty

Fundamental Rights safeguard citizens from **arbitrary actions of the state**. They guarantee freedoms like speech, movement, and expression which are necessary for a free and civilized life.

2. Establishment of Equality

Basic rights ensure that the state treats everyone **equally before the law**. They prohibit discrimination based on **religion, caste, gender, or birth**, helping build a fair society.

3. Promotion of Social Justice

Rights such as **prohibition of forced labor and child labor** protect weaker sections from exploitation. They support social justice and human dignity.

4. Strengthening Democracy

Rights like **freedom of speech, press, and assembly** allow citizens to express opinions, criticize the government, and participate actively in political life. This strengthens **public participation and democratic governance**.

5. Protection of Cultural Diversity

Cultural and Educational Rights safeguard the culture, language, and traditions of **minorities**, promoting unity in diversity.

6. Empowerment Through Legal Remedies

Article 32 provides the **Right to Constitutional Remedies**, called the “*heart and soul of the Constitution*” by Dr. Ambedkar. This allows citizens to go to courts to protect their rights.

7. Balanced Relationship Between State and Citizens

Basic rights define the **limits of state power**, ensuring that the government functions within constitutional boundaries and does not misuse its authority.

OR

(b) Describe the idea of “Equality before the law” as outlined in Article 14.

Introduction

Article 14 of the Indian Constitution guarantees **“Equality before the law”** and **“Equal protection of the laws”**. It forms the basis of the entire concept of **Rule of Law** in India and ensures that every person is

treated equally by the legal system. This right applies to **citizens and non-citizens**, making it a universal guarantee of fairness and justice.

Meaning of “Equality Before the Law”

- The phrase **“Equality before the law”** means that **all persons are equal in the eyes of the law**.
- It ensures that **no person is above the law**, whether it is a government officer, politician, or ordinary citizen.
- It is a **negative concept**, meaning the state shall not grant **special privileges** to any person.

This idea is inspired by the **British Rule of Law** propounded by A.V. Dicey.

Meaning of “Equal Protection of the Laws”

- This part of Article 14 ensures that the **same laws apply equally to all persons** in similar situations.
- It allows **reasonable classification**, meaning the state can make laws for different groups if the classification is:
 1. **Reasonable**,
 2. Based on **intelligible differentia**, and
 3. Has a **rational relation** to the object of the law.

This concept is borrowed from the **U.S. Constitution**.

Key Elements of Article 14

1. Rule of Law

- No person is above the law.

- Every action of the government must be conducted according to law.

2. No Arbitrary Action

- The government cannot act unfairly or discriminate without reason.
- Article 14 restricts **arbitrary decision-making** by authorities.

3. Reasonable Classification Allowed

- The state can make special laws for women, children, weaker sections, or backward classes.
- But classification must not be **artificial, arbitrary, or unjust**.

4. Universal Application

- Applies to **all persons**—citizens, foreigners, and even legal persons like companies.
-

Importance of Article 14

1. Ensures Fairness and Justice

- Protects individuals from discriminatory or unequal treatment.

2. Protects Democratic Values

- Promotes equality, a basic principle of Indian democracy.

3. Promotes Social Equality

- Helps reduce discrimination based on caste, religion, gender, or class.

4. Prevents Misuse of Power

- Government actions can be challenged in court if they violate Article 14.

5. Strengthens Judicial Review

- Courts examine laws and strike down those which are **arbitrary or discriminatory**.

Q.3 (a) Discuss the reasonable restrictions imposed on the freedoms under Article 19.

Article 19 of the Indian Constitution guarantees six fundamental freedoms to citizens, such as freedom of speech, movement, assembly, association, profession, etc. However, these freedoms are **not absolute**. The State may impose **reasonable restrictions** on them to protect public interest and maintain order in society. These restrictions must be **reasonable**, meaning they should not be arbitrary, excessive, or unfair.

Reasonable Restrictions on Each Freedom

1. Freedom of Speech and Expression – Article 19(1)(a)

Restrictions can be imposed under Article 19(2) on the following grounds:

- **Security of the State**
 - **Friendly relations with foreign States**
 - **Public order**
 - **Decency or morality**
 - **Contempt of court**
 - **Defamation**
 - **Incitement to an offence**
 - **Integrity and sovereignty of India**
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2. Freedom of Assembly (Peaceful and without arms) – Article 19(1)(b)

Restrictions allowed under Article 19(3):

- Sovereignty and integrity of India
 - Public order
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3. Freedom to Form Associations or Unions – Article 19(1)(c)

Restrictions under Article 19(4):

- Sovereignty and integrity of India
 - Public order
 - Morality
-

4. Freedom of Movement Throughout India – Article 19(1)(d)

Restrictions under Article 19(5):

- In the interest of the general public
 - Protection of Scheduled Tribes
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5. Freedom of Residence and Settlement – Article 19(1)(e)

Restrictions under Article 19(5):

- In the interest of the general public
 - Protection of Scheduled Tribes
-

6. Freedom of Profession, Occupation, Trade or Business – Article 19(1)(g)

Restrictions under Article 19(6):

- **In the interest of the general public**
- **Professional/technical qualifications required for certain professions**
- **State monopoly in certain trades or businesses**

(b) Discuss the significance of Directive Principles of State Policy (DPSP) in the governance of India.

The **Directive Principles of State Policy (DPSP)**, contained in **Part IV (Articles 36–51)** of the Indian Constitution, are guidelines for the government to establish social, economic, and political justice. Although they are **non-justiciable** (not legally enforceable in courts), they hold great importance in shaping the policies and laws of the country.

Significance of DPSP in the Governance of India

1. Provide a Framework for a Welfare State

DPSP direct the government to work towards reducing inequality, improving living standards, and ensuring social and economic justice. This transforms India from a mere political democracy into a **social and welfare-oriented democracy**.

2. Guide Law-Making

Parliament and State Legislatures rely on DPSP while making laws. Many laws such as:

- land reforms
- MGNREGA
- abolition of untouchability

- labor welfare laws have been inspired by DPSP.
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3. Promote Social and Economic Justice

DPSP aim to eliminate poverty, ensure fair distribution of resources, protect workers, promote equal pay, provide education and health, and bridge socio-economic gaps.

This helps in building a more **equitable society**.

4. Strengthen Good Governance

DPSP encourage:

- transparency
- protection of environment
- decentralisation through Panchayati Raj
- promotion of justice and equal opportunity

These principles help the government follow **ethical and responsible governance**.

5. Reflect the Aspirations of the Constitution Makers

DPSP express the goals the nation should achieve in the long term—such as economic development, social harmony, peace, and international cooperation. They act as **moral obligations** for governments.

6. Basis for Progressive Policies

Policies like:

- free legal aid
 - compulsory education (later made a Fundamental Right)
 - mid-day meal scheme
 - environmental protection laws
are directly derived from DPSP.
-

7. Help Courts in Interpretation of Laws

Although DPSP are not enforceable, the Supreme Court uses them to:

- interpret the Constitution
- settle disputes
- examine government policies

Thus, they indirectly influence judicial decisions.

8. Balance Rights and Duties

DPSP complement Fundamental Rights. While FR protect individual liberty, DPSP ensure **collective welfare**, maintaining a balance between rights and social responsibilities.

OR

Q.3 (a) What does the concept of “Right to Life” encompass in Article 21 of the Indian Constitution?

Article 21 of the Indian Constitution states:
“No person shall be deprived of his life or personal liberty except according to procedure established by law.”

Originally, this right meant only **protection from arbitrary deprivation of life and liberty**. But through judicial interpretation, especially after the *Maneka Gandhi v. Union of India (1978)* case, the

Supreme Court has expanded Article 21 into a **broad human rights charter**.

What the “Right to Life” Encompasses

1. Right to Live with Human Dignity

The right to life is not merely physical survival. It includes:

- basic necessities like food, water, clothing, shelter
 - a clean environment
 - freedom from exploitation and degrading treatment
-

2. Right to Personal Liberty

Article 21 protects individual freedom from arbitrary arrest, detention, or interference unless due process is followed.

3. Right to Privacy

Recognized in *Puttaswamy Case (2017)* as a fundamental right. Covers privacy in personal life, data, communication, and decisions.

4. Right to a Clean and Healthy Environment

Courts have included the right to:

- pollution-free air and water
- protection of forests and natural resources

Environmental protection is part of the Right to Life.

5. Right to Livelihood

In *Olga Tellis v. Bombay Municipal Corporation* (1985), the Supreme Court included the right to livelihood as part of the right to life. Because without livelihood, life itself is endangered.

6. Right to Health and Medical Care

The government must ensure:

- medical treatment
 - emergency healthcare
 - safe working conditions
 - maternal and child health
-

7. Right to Education (up to age 14)

Before Article 21A was added, courts had already linked education to the right to life because education is essential for meaningful existence.

8. Right to Shelter

Not just a roof, but adequate living conditions ensuring dignity and privacy.

9. Right Against Torture and Inhuman Treatment

Includes protection from:

- custodial violence
 - torture
 - degrading punishment
-

10. Right to Legal Aid and Fair Trial

Article 21 includes:

- fair procedure
 - free legal aid (especially for the poor)
 - speedy trial
 - humane treatment of prisoners
-

11. Right to Reputation

A person's dignity and reputation are integral to the right to life.

12. Right to Die with Dignity (Passive Euthanasia)

The Supreme Court has allowed:

- withdrawal of life support (passive euthanasia)
- living wills

Thus including the right to die with dignity.

(b) How the Union and the States are allocated legislative and financial powers?

The Constitution of India follows a **federal structure with a strong Centre**, and therefore it clearly distributes both **legislative** and **financial** powers between the Union and the States. This distribution is mainly designed to avoid conflicts, ensure smooth governance, and maintain national unity while respecting regional autonomy.

1. Legislative Powers (Law-making Powers)

Legislative powers are divided through **Article 246** and the **Schedule**, which contains **three lists**:

1. Union List (List I)

- Contains subjects of national importance such as defence, foreign affairs, atomic energy, currency, banking, railways, communication etc.
- Only **Parliament** can make laws on these subjects.
- Ensures uniformity across the country.

2. State List (List II)

- Contains subjects mainly related to states such as police, public order, public health, agriculture, and local government.
- **State Legislatures** have exclusive power to make laws on these matters.
- Promotes local autonomy.

3. Concurrent List (List III)

- Includes subjects like education, forests, trade unions, marriage & divorce, adoption, electricity etc.
- **Both Parliament and State Legislatures** can make laws.
- In case of conflict, **Union law prevails**.

Residuary Powers

- Powers not listed in any of the three lists (e.g., cyber laws, space research) are given exclusively to the **Union Government**.

2. Financial Powers (Taxation & Revenue Distribution)

India follows a **cooperative federal financial structure** where the Centre controls major taxes, but States also have independent financial powers.

1. Union Financial Powers

- Centre can levy taxes like income tax (except agricultural income), customs, excise on manufactured goods, corporation tax, GST share etc.
- Controls major revenue-generating taxes to maintain national fiscal stability.

2. State Financial Powers

- States can levy taxes such as land revenue, excise on alcoholic liquor, stamp duty on property, road tax, electricity duty etc.
- They receive a share of central taxes.

3. Goods and Services Tax (GST)

- Introduced in 2017 as a **shared taxation system**.
- Centre and States jointly levy GST on supply of goods and services.
- GST Council ensures cooperative federalism.

4. Finance Commission

- Article 280 establishes the **Finance Commission** to recommend:
 - distribution of tax revenue between Union and States,
 - grants-in-aid,
 - principles of financial devolution.
 - Helps maintain a fair distribution of financial resources.
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Q.4 (a) List the fundamental duties mentioned in the Indian Constitution.

Fundamental Duties are listed under **Article 51A** of the Indian Constitution. They were added through the **42nd Constitutional Amendment Act, 1976**, based on the recommendations of the Swaran Singh Committee. These duties act as a reminder to citizens about their moral, ethical and civic responsibilities. They help promote national discipline, unity, and respect for the Constitution.

Originally, there were **10 Fundamental Duties**, and later one more duty was added through the **86th Amendment (2002)**, making the total **11 duties**.

List of Fundamental Duties (Article 51A)

The 11 Fundamental Duties are:

- 1. To abide by the Constitution and respect the National Flag and National Anthem.**
- 2. To cherish and follow the noble ideals that inspired India's freedom struggle.**
- 3. To uphold and protect the sovereignty, unity, and integrity of India.**
- 4. To defend the country and render national service when called upon.**
- 5. To promote harmony and the spirit of brotherhood among all people of India.**
- 6. To renounce practices derogatory to the dignity of women.**
- 7. To protect and improve the natural environment including forests, lakes, rivers, and wildlife.**

- 8. To develop scientific temper, humanism, and the spirit of inquiry and reform.**
- 9. To safeguard public property and avoid violence.**
- 10. To strive towards excellence in all spheres of individual and collective activity.**
- 11. To provide opportunities for education to children between 6 and 14 years of age (added by the 86th Amendment).**

(b) What are the constitutional powers of the President of India in a parliamentary system?

The President of India is the **constitutional head of the State** and functions within the framework of a **parliamentary form of government**. While the real executive power is exercised by the Council of Ministers headed by the Prime Minister, the President performs a wide range of powers granted by the Constitution. These powers ensure smooth functioning of the government, maintain constitutional balance, and uphold national unity.

1. Executive Powers

- The President is the **formal head of the Union Executive**.
 - Appoints the Prime Minister and, on their advice, the Council of Ministers.
 - Appoints Governors, Chief Justice and Judges of Supreme Court and High Courts, CAG, UPSC members, Election Commissioners, Ambassadors etc.
 - All executive actions of the Government of India are taken in the **name of the President**.
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2. Legislative Powers

- Summons and prorogues Parliament sessions and can dissolve the Lok Sabha.
 - Addresses the first session of each year and the first session after a general election.
 - No bill can become law without the **President's assent**.
 - Can return a bill for reconsideration (except money bills).
 - Issues **Ordinances** when Parliament is not in session, having the same force as laws.
 - Nominates 12 members to the Rajya Sabha and 2 members to the Lok Sabha (Anglo-Indian nomination provision existed earlier but removed by 104th Amendment).
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3. Financial Powers

- Money Bills can be introduced in the Lok Sabha only with the **President's recommendation**.
 - The Annual Budget is presented in Parliament in the name of the President.
 - Controls the **Contingency Fund of India** and can authorize withdrawals in emergencies.
 - Appoints the Finance Commission every five years.
-

4. Judicial Powers

- Appoints judges of the Supreme Court and High Courts.
- Has the power to grant **pardon, reprieve, remission, or commutation** of punishment.

- Especially significant in cases involving death sentences or court-martials.
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5. Military Powers

- The President is the **Supreme Commander of the Armed Forces**.
 - Appoints the chiefs of Army, Navy, and Air Force.
 - Can declare war or conclude peace, but only on the advice of the Union Cabinet.
-

6. Diplomatic Powers

- Represents India in international affairs.
 - Receives foreign diplomats and appoints Indian ambassadors.
 - All international treaties and agreements are made in the President's name (but require Parliament's approval if they involve changes in existing laws).
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7. Emergency Powers

The President plays a crucial role during emergencies:

- **National Emergency (Article 352)**
- **President's Rule (Article 356)**
- **Financial Emergency (Article 360)**

These powers have wide impact on the federal structure and governance of the country.

OR

Q.4 (a) How does the amendment process ensure flexibility in the Constitution?

The Constitution of India is designed to be both **rigid and flexible**, and this balance is mainly achieved through its **amendment process under Article 368**. While the Constitution maintains its basic structure, it also allows timely changes to meet social, political, and economic needs. This flexibility helps the Constitution grow with the nation and remain relevant for future generations.

How the Amendment Process Ensures Flexibility

1. Multiple Methods of Amendment

The Constitution provides **three different procedures**, depending on the importance of the provision:

- **Simple Majority**: Used for basic changes like formation of states, salaries of MPs, admission of new states etc.
- **Special Majority**: Requires 2/3 members present and voting plus 50% total membership. Most amendments follow this process.
- **Special Majority + Ratification by States**: Required only for federal matters like distribution of powers, Supreme Court/High Courts, and representation in Parliament.

This variety ensures both convenience and protection.

2. Easy Amendment of Non-Essential Provisions

Provisions that do not impact the federal structure or fundamental values can be amended easily.

This allows quick adaptation to:

- administrative needs

- social reforms
- emerging issues

Thus, the Constitution does not become rigid or outdated.

3. Protection of Essential Features

At the same time, important elements like the **Basic Structure** cannot be altered.

This creates flexibility **without compromising core principles** such as:

- democracy
- rule of law
- judicial review
- federalism

It ensures balanced constitutional evolution.

4. Allows Progressive and Social Reforms

Many reforms—Right to Education, Panchayati Raj, GST, Fundamental Duties—were added only because the Constitution is flexible enough to accept amendments as society evolves.

5. Ensures Federal Cooperation

For some amendments, the approval of **half of the states** is required. This protects the federal nature but also encourages healthy cooperation between Union and States, making the amendment process adaptable and democratic.

(b) Discuss the significance of the First Amendment to the Indian Constitution.

The **First Amendment Act, 1951** was the **first major change** made to the Indian Constitution, introduced by Prime Minister Jawaharlal Nehru. It was brought only a year after the Constitution came into force because certain judicial decisions had created difficulties in implementing important social and economic reforms. The amendment aimed to remove these hurdles and strengthen the authority of the government in the interest of the public.

Key Significance of the First Amendment

1. Strengthened the Right to Freedom of Speech (Article 19)

The amendment introduced “**reasonable restrictions**” on freedom of speech and expression.

It added grounds such as:

- public order
- friendly relations with foreign states
- incitement to an offence

This balanced individual freedom with national security and social harmony.

2. Protected Land Reform Laws from Judicial Review

Many state laws on **agrarian reforms** were declared unconstitutional by courts.

The First Amendment solved this problem by introducing:

- **Article 31A** – Protected land reform laws from being struck down.

- **Article 31B + Ninth Schedule** – Placed certain laws beyond judicial review.

This helped India continue its mission of reducing zamindari and promoting social justice.

3. Expanded the Scope of Right to Equality (Article 15)

The amendment added **Article 15(4)**, allowing the State to make **special provisions for socially and educationally backward classes**, including SCs and STs.

This became the foundation for:

- reservation policies
- affirmative action
- education and employment benefits

Thus, it promoted equality in a practical sense.

4. Ensured Socio-Economic Reforms

The First Amendment made it possible for the government to implement:

- land redistribution
- abolition of intermediaries
- welfare programs
- economic development policies

Without the amendment, many key developmental laws would have remained invalid.

5. Clarified Freedom of Trade and Business

The amendment allowed the State to impose reasonable restrictions on trade and business in the public interest.

This ensured that economic freedom does not harm public welfare.

Q.5 (a) Detail the circumstances in which a National Emergency may be announced.

A **National Emergency** is declared under **Article 352** of the Indian Constitution. It is the most serious type of emergency and is proclaimed when the security, stability, and independence of the country are threatened. During a National Emergency, the federal structure becomes unitary, and the Union Government gains extraordinary powers to protect the nation. The President can declare it only on the **written advice of the Council of Ministers** headed by the Prime Minister.

Circumstances in Which a National Emergency May Be Announced

1. War

A National Emergency can be declared when India is **officially engaged in war** with another country.

War includes:

- declared wars
- full-scale military attacks
- armed conflicts threatening national survival

In such situations, emergency powers help the government mobilize resources and ensure national defense.

2. External Aggression

Even if a formal war is not declared, an emergency can be proclaimed due to **external aggression**.

This refers to:

- attacks or invasions by foreign powers
- cross-border hostilities
- violations of territorial integrity
- military threats that endanger the nation

This condition ensures the government can act quickly before a situation becomes a full war.

3. Armed Rebellion

Earlier known as “internal disturbance,” the term was replaced by **armed rebellion** through the 44th Amendment Act, 1978.

Armed rebellion means:

- violent uprising against the government
- organized armed groups creating internal security threats
- attempts to overthrow the constitutional order

This ensures emergency is used only in serious internal threats involving weapons and large-scale violence.

Proclamation and Parliamentary Approval

- The President issues the proclamation based on the Prime Minister’s written advice.
- It must be approved by **both Houses of Parliament** within one month.

- The emergency can remain in force for **six months** at a time and can be extended with further parliamentary approval.

(b) Discuss the impact of the 42nd Amendment on the Indian Constitution.

The **42nd Constitutional Amendment Act, 1976** is often called the “**Mini Constitution**” because it made the largest number of changes to the Indian Constitution. Passed during the Emergency period (1975–77), it aimed to strengthen the central government, reduce the role of the judiciary, and reshape many constitutional provisions. Its impact has been considered one of the most significant in India’s constitutional history.

Major Impacts of the 42nd Amendment

1. Strengthened the Power of the Central Government

The amendment altered several provisions to make India more **unitary**, especially during emergencies. It increased the control of the Union over states by revising subjects in the **Concurrent List** and emphasizing national importance over state autonomy.

2. Changed the Preamble

Three new words were added:

- **Socialist**
- **Secular**
- **Integrity**

This strengthened the ideological framework of the Constitution and clarified that India is committed to:

- social justice
 - religious neutrality
 - national unity and integrity
-

3. Reduced the Power of the Judiciary

The amendment attempted to limit judicial review by:

- preventing courts from examining Constitutional Amendments
- restricting the power of the High Courts in certain cases
- transferring more subjects to Parliament's exclusive domain

Many of these restrictions were later reversed by the **44th Amendment (1978)**.

4. Strengthened Directive Principles (DPSP)

The 42nd Amendment gave DPSP a **higher status** by stating that the government must apply these principles while making laws.

New DPSPs were added related to:

- free legal aid
- protection of the environment
- promotion of equal justice

It made social welfare a stronger obligation on the State.

5. Added Fundamental Duties

Based on the Swaran Singh Committee, the amendment introduced **Article 51A**, listing **10 Fundamental Duties** for citizens.

This encouraged civic responsibility, discipline, and respect for national symbols.

6. Extended the Term of Legislatures

- The Lok Sabha and State Legislative Assemblies' term was increased from **5 to 6 years**.
 - This was later reversed by the 44th Amendment after Emergency ended.
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7. Changes to the Role of the President

The amendment made the President **bound by the advice of the Council of Ministers**, reducing discretionary powers and making the executive more parliamentary.

OR

Q.5 (a) Describe the constitutional rules regarding Panchayati Raj organizations.

The Panchayati Raj System is a **three-tier local self-government structure** that ensures democratic participation at the village, block, and district levels. It was given constitutional status through the **73rd Constitutional Amendment Act, 1992**, which came into force on **24 April 1993**. This amendment added **Part IX** and **Article 243 to 243O** to the Constitution, along with a new **Eleventh Schedule**. The Act aims to promote grassroots democracy and empower rural communities.

Constitutional Rules Regarding Panchayati Raj

1. Three-Tier Structure (Article 243B)

The Constitution establishes a uniform three-level system of Panchayati Raj:

- **Gram Panchayat** – Village level
 - **Panchayat Samiti** – Block/Intermediate level
 - **Zila Parishad** – District level
- This structure ensures decentralization and local participation.
-

2. Regular Elections (Article 243E)

- Elections must be held **every 5 years**.
 - If dissolved earlier, elections must be conducted within **6 months**.
This ensures continuity and democratic functioning.
-

3. Reservation of Seats (Article 243D)

Seats are reserved in Panchayats for:

- **Scheduled Castes (SCs)**
 - **Scheduled Tribes (STs)**
 - **Women (not less than one-third of total seats)**
Some states have increased reservation for women up to 50%.
This encourages inclusive participation.
-

4. State Election Commission (Article 243K)

A separate **State Election Commission** is responsible for conducting free and fair elections for Panchayats. It has powers of supervision, direction, and control over electoral rolls and election procedures.

5. Devolution of Powers (Article 243G)

State Legislatures must assign powers and responsibilities to Panchayats, including:

- preparing plans for economic development
- implementing social justice schemes
- managing local resources

The **Eleventh Schedule** lists **29 subjects** such as health, sanitation, agriculture, drinking water, rural roads, and poverty alleviation programs.

6. Finance Commission for Panchayats (Article 243I)

States must constitute a **State Finance Commission** every five years to recommend:

- distribution of funds
- grants-in-aid
- sharing of taxes between state and Panchayats

This ensures financial stability of local bodies.

7. District Planning Committee (Article 243ZD)

A District Planning Committee prepares **integrated development plans** by combining plans from Panchayats and Municipalities to ensure coordinated growth.

(b) What is a Financial Emergency? How does it affect the financial stability of the country?

A **Financial Emergency** is a special provision under **Article 360** of the Indian Constitution. It is the **least used type of emergency**, intended to protect the financial stability and creditworthiness of the country.

The President of India can declare a Financial Emergency if the **financial stability or credit of India or any part thereof is threatened.**

Key Features of a Financial Emergency

1. Authority to Declare

- The **President** can proclaim a Financial Emergency, but only on the **written advice of the Council of Ministers**.
- It is applicable to the **whole country or any part** of it.

2. Parliamentary Approval

- The proclamation must be **approved by both Houses of Parliament within two months**.
- It can be revoked at any time by the President.

3. Duration

- Once approved, it continues **indefinitely** until revoked.
-

Effects on Financial Stability and Governance

1. Control Over State Finances

- The Union Government can direct **states to observe financial propriety** and reduce expenditure.
- Salaries and allowances of **government officials and judges** can be **reduced**.
- This ensures that state finances do not endanger national economic stability.

2. Reduction in State Autonomy

- The President can direct states to **submit financial proposals** for Union approval.
- States cannot incur expenditure without prior permission from the Union, ensuring **central control over financial matters**.

3. Impact on Federal Structure

- During a Financial Emergency, the **Union Government's authority increases**, reducing the independence of states in financial decisions.
- The focus shifts to **national economic stability**, rather than state priorities.

4. Protection of Creditworthiness

- Ensures that India or affected regions maintain **financial credibility** in domestic and international markets.
- Prevents economic collapse caused by mismanagement of funds at state or national levels.